MT LEGISLATIVE HISTORY

Chapter 345 1985

Bill H 698 S _____ Original bill & hist. ___C

| H. Committee on Natural Resources | | S. Committee on Natural Resources | |
|---|---|---|---|
| Hearing Date(s) Feb 15 | ✓ C | Hearing Date(s) Mar 18 | ✓ C |
| _____ | ___C | Mar 20 | ✓ C |
| _____ | ___C | _____ | ___C |
| _____ | ___C | _____ | ___C |
| Date Out Feb 15 | ✓ C | Mar 20 | ✓ C |

---

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 15, 1985

The meeting of the Natural Resources committee was called to order by Chairman Dennis Iverson at 3:20 p.m. in Room 312-1 of the State Capitol.

ROLL CALL: All members of the committee were present except Rep. John Harp, who was excused.

HOUSE BILL 769: Rep. Gay Holliday, District 31, introduced HB 769, which she sponsored. She explained that the bill would revise bond release procedures under the Montana Strip and Underground Mine Reclamation Act by allowing portions of a reclamation bond to be released as reclamation progress is made. Such release is allowed under federal regulation law, and this bill would put Montana in line with federal policy, she explained.

Jim Mockler, representing the Montana Coal Council, spoke in favor of HB 769, saying that his group agrees with the procedures set up to release portions of bonds. The practice of holding the entire original bond amount poses a financial burden to the mining companies, but provides no real value to the state, he said.

Dennis Hemmer, representing the department of state lands, said the department supports this legislation. A copy of his testimony is attached hereto as Exhibit 1.

Lorraine Gillies spoke in favor of HB 769 on behalf of the Montana Farm Bureau Federation. A copy of her testimony is attached as Exhibit 2.

Tom Ebzery, an attorney for NERCO, said that company supports passage of HB 769.

No opponents rose against HB 769, and there were no questions from committee.

HOUSE BILL 698: HB 698 was introduced in committee by sponsor Rep. Bob Ream, District 54. He said the bill is a compromise which would amend the hard rock reclamation act, specifically addressing the issues of application for operating permits, inclusion of groundwater information, and citizen participation in the appeal procedure. He also asked that the committee make a minor amendment to the bill. A copy of that proposed change is attached as Exhibit 3.

Paul Hawks, a Melville resident speaking on behalf of the Northern Plains Resource Council, spoke in support of HB 698. A copy of his testimony is attached as Exhibit 4.

Dennis Hemmer supported the legislation on behalf of the department of state lands. He said the bill clarifies the requirements of the hard rock mining act, and virtually all of the provisions in it are required elsewhere in statute. A copy of his testimony is attached as Exhibit 5.

Robert Dello-Russo, of Heron, spoke in support of HB 698. He indicated concern with proposed development by ASARCO in northwestern Montana, and said the legislature should act now to define workable and enforceable regulation of future mining activity. A copy of his testimony is attached as Exhibit 6.

George Ochenski, representing the Montana Environmental Information Center, told the committee that HB 698 is a compromise bill that represents a great deal of work by several interest groups. He asked the committee to consider that work carefully when proposing any amendments to the bill. A copy of his testimony is attached hereto as Exhibit 7.

Gary Langley, executive director of the Montana Mining Association, said his group neither supports nor opposes HB 698. He said the bill is unnecessary because mining companies operating in the state are already meeting its provisions. A copy of his testimony is attached as Exhibit 8.

Richard Parks, operator of Parks' Fly Shop in Gardiner, rose in support of HB 698, noting that adequate reclamation is vital to the water quality on which his business depends. A copy of his testimony is attached as Exhibit 9.

No opponents rose against HB 698, and there were no questions from the committee.

HOUSE BILL 784: Rep. Gay Holliday, District 31, introduced HB 784, which she sponsored. The bill would revise strip mine permit application review procedures to provide administrative completeness and acceptibility, she said.

Dennis Hemmer of the department of state lands spoke in support of the legislation, which he said would provide specific guidance to the public, industry and the department. He said HB 784 is an example of "good government." A copy of his testimony is attached hereto as Exhibit 10.

Rep. O'Hara withdrew his DO PASS motion and moved DO PASS AS AMENDED on HJR 25, which carried unanimously.

HOUSE BILL 755: Rep. Kadas moved DO PASS, which was unanimously approved.

HOUSE BILL 784: Rep. Driscoll moved DO PASS, which carried unanimously.

HOUSE BILL 769: Rep. O'Hara moved DO PASS, which carried unanimously.

HOUSE BILL 698: Rep. Raney moved DO PASS. Rep. Raney then moved the amendment proposed by Rep. Ream, which was approved. The DO PASS motion on the bill was carried, with Rep. Driscoll voting no.

HOUSE BILL 362: Rep. Krueger moved DO PASS AS AMENDED on HB 362, which had been amended in executive action on February 11. That motion was carried unanimously. Rep. Krueger then moved the statement of intent, which was also approved by a unanimous vote.

There being no further business before the committee, the meeting was adjourned at 5:10 p.m.

Rep. DENNIS IVERSON, Chairman

TESTIMONY ON HOUSE BILL 698

FROM DENNIS HEMMER, COMMISSIONER OF STATE LANDS

The Department of State Lands supports the passage of House Bill 698. This bill truly clarifies the requirements of the Metal Mine Reclamation Act or as it is more commonly known, the Hard Rock Act. Virtually all the additions to the information requirements or to the performance standards are either required by other laws, rules, or interpretation of other laws and rules. Placing the requirements directly in the Hard Rock Act will aid the applicant by having the requirements in one place. It also aids the interested person as they can more easily determine the standards of the Act.

The last two sections of the bill are new. Both actions are presently available to an aggrieved party through court action. The advantage of these sections is that they layout an administrative procedure that must be followed before litigation is pursued. Litigation is costly for all parties involved and if the problem can be worked out administratively, it's better for all.

House Bill 698 is the result of a compromise between the interested groups and the mining industry. It is a good compromise and I urge you to give it a do pass recommendation.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 2
DATE 031885
BILL NO. HB698

COMMITTEE ON Senate NAT Res

VISITORS' REGISTER

| NAME | REPRESENTING | BILL # | Check One | |
|---|---|---|---|---|
| | | | Support | Oppose |
| Russ Brown | N.P.R.C. | 695 769 784 | ✓ | |
| Dennis Hemmer | Dept of State Lands | 698 702 705 784 769 | ✓ | |
| Pat Wilson | Montco/Thermal Energy | HB769 784 | ✓ | |
| Gary Amestoy | Dept of State Lands | 698 ~~784~~ 769 | ✓ | |
| Jack Bergeman | Mt. P.P.G.C. | 698 | ✓ | |
| T.M. Collins | ASARCO Inc | 698 | ✓ | |
| Ken Williams | Western Energy | 769 784 | ✓ | |
| Geo. Ochenski | ENV. INFO CENTER | 698 | X | |
| Jim Mockler | MT. Coal Council | 769 784 | ✓ | |
| Ward Shanahan | Chevron Corp. | 698 | X | |
| Marg Lyon | Nat. Park Service | 769 784 | | |

(Please leave prepared statement with Secretary)

ROLL CALL

Natural Resources COMMITTEE

48th LEGISLATIVE SESSION -- 1985 Date 3/15/85

DATE
SAT
#

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| ECK, Dorothy (Chairman | ✓ | | |
| HALLIGAN, Mike (Vice Chairman) | ✓ | | |
| WHEEDING, Cecil | ✓ | | |
| MOHAR, John | ✓ | | |
| DANIELS, M. K. | ✓ | | |
| FULLER, David | ✓ | | |
| CHRISTIAENS, Chris | ✓ | | |
| TVEIT, Larry | ✓ | | |
| GAGE, Delwyn | ✓ | | |
| ANDERSON, John | ✓ | | |
| SHAW, James | ✓ | | |
| HARDING, Ethel | ✓ | | |
| | | | |
| | | | |
| | | | |

Each day attach to minutes.

2/15/85

WITNESS STATEMENT

Name GREG. OCHENSKI Committee On NAT. RES.

Address 813 6TH Date 2/15

Representing ENV. INF. CENTER Support X

Bill No. HB 698 Oppose

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. WE SUPPORT THIS BILL NOT ONLY
2. FOR THE EXCELLENT PROVISIONS IT
3. CONTAINS, BUT BECAUSE IT
4. REPRESENTS A LAND-MARK COMPROMISE WORKED OUT BETWEEN ENVIRONMENTAL, INDUSTRY, & STATE REGULATORY AGENCY INTERESTS. STRONGLY URGE THIS COMMITTEE TO CONSIDER THIS IMPORTANT FACTOR & PASS THIS BILL INTACT WITH EXISTING LANGUAGE.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

# NORTHERN PLAINS RESOURCE COUNCIL

Field Office
Box 858
Helena, MT 59624
(406) 443-4965

Main Office
419 Stapleton Building
Billings, MT 59101
(406) 248-1154

Field Office
Box 886
Glendive, MT 59330
(406) 365-2525

HB 698

Madam Chairperson and members of the committee, I am Jack Heyneman, of Fishtail. I am on the board of the Northern Plains Resource Council, and am a member of NPRC's Stillwater Protective Association affiliate. I come today to urge your support for HB 698.

Within NPRC, we have three affiliates in areas facing hard rock development: the Stillwater Valley, where I'm from, the Boulder Valley, and the Jardine area. These members are going to be directly affected by hard rock development; many are facing the prospect of a mine development and tailings impoundment located directly above their ranches and water supplies. This bill addresses some of the major concerns of our members regarding hard rock development and its effects on surface and ground water - a resource vitally impotant to our businesses of ranching and farming. We are worried about the problems of erosion, and the safety of tailings impoundments. We feel this bill is a good attempt to address those concerns while still allowing the Department of State Lands (DSL) the flexibility to address the wide variety of mining projects across the state that it must regulate.

There is always the potential for abuse when laws such as this one are written to address particular concerns and at the same time written broadly enough to allow flexibility. By doing so, it places a responsibility on all parties involved to not abuse the flexibility incorporated in the new language. It is our belief that it's when these abuses occur that efforts are subsequently made to restrict flexibility, and we hope this doesn't happen.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 3

This bill continues the obligation of the operator to meet the requirements within the law, but allows individual operators some leeway in determining what constitutes, for example, 'sufficient' water data, and to determine, within their own reclamation plans, what meets the requirements of "comparable utility and stability as adjacent areas".

This flexibility places a burden on the department to decide whether an operator has followed the intent and requirements of the law, and to enforce the provisions within the operating permit and reclamation plan.

We also recognize that this flexibility places a burden on our members, and on all affected citizens, to participate in the regulatory process to ensure that the inclusions in the operating permit, as discussed in Section 1 of the bill, are adequate; that the requirements in the reclamation plan listed in Section 2 have been met; and to work with the department regarding problems of enforcement of regulations or damages to water supply. As affected citizens, we are willing to be involved in this process.

Both of the two new sections in the bill, Section 4, page 8, on mandamus, and Section 5, page 9, on replacement of damaged water supplies are similar to provisions in the Montana Strip and Underground Mine Reclamation Act, with some changes to address concerns of DSL and the Montana Mining Association.

The mandamus section provides a concise description of the process that a citizen should go through if he feels the hard rock mining act is not being enforced - it does not refer, by the way, to mandamus action against a company. The water replacement section lays out the procedure for citizens to request a remedy for damaged

water supplies.

We urge you to support this bill, and would like to express our appreciation for the willingness of the department and the Montana Mining Association to sit down and work with us to write a bill that would address our members' concerns, and to work out conflicts prior to the final bill and hearings. We know it hasn't been easy, and Commissioner Hemmer deserves credit for his work on behalf of this bill.

Thank you for your time.

Box 114
Noxon, Mt. 59853
March 12, 1985

Senator Dorothy Eck
The State Senate
Capitol Station
Helena, Montana

Dear Senator Eck:

I would like your support for H.B. 698 regarding the effects of hard rock mining on water quality. As there is great potential for several mines in the Noxon area, I feel strongly about this issue. I would like to see a stronger bill than H.B. 698, but this bill is better protection for our waters than we presently have. Since the Montana Mining Association will not challange this bill, I accept it as a compromise.

Sincerely,

Bonnie Reichert

cc MEIC

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 4
DATE 031885
BILL NO. HB698

BEFORE THE SENATE NATURAL RESOURCES COMMITTEE
ON HOUSE BILL 698
March 18, 1985

Mr. Chairman, members of the committee:

For the record, my name is Gary Langley. I am executive director of the Montana Mining Association. The Montana Mining Association is a trade association that represents 1) Every major producer of hard-rock minerals in Montana; 2) Companies that hope to operate mines in Montana in the future; 3) Individuals with an interest in mining, and 4) Companies that supply goods and services to the mining industry.

The Montana Mining Association neither supports nor opposes House Bill 698.

House Bill 698 represents a compromise between the Northern Plains Resource Council and the Montana Mining Association.

The Montana Mining Association believes House Bill 698 is unnecessary because mining companies already are meeting its provisions. The requirements in House Bill 698 duplicate administrative rules and regulations enforced by other state agencies. We caution that the provisions in House Bill 698 are implemented with care to avoid confusion and conflicts with existing regulations. In addition, House Bill 698 will allow individuals who believe they have been aggrieved by a mining operation to take administrative action against that company.

In the last decade, the mining industry has faced strict regulatory proposals in nearly every session of the legislature. House Bill 698

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 5
DATE 031885
BILL NO. HB698

represents yet another layer of regulation on an industry that faces the most restrictive requirements in any state in the nation.

Modern mining in Montana operates in respect to laws and regulations that were designed to protect Montana's environment. The people who produce minerals are just as concerned with sound environmental practices as those who pass the laws and enforce them.

As a second generation Montanan, I am concerned about our state's environment. But I also want to see development of our mineral resources with the jobs the mining industry provides and the taxes it pays. For years, I hunted elk near the site where a mining development will be in operation within the next few years at Jardine. Those elk are still there to day and will be for many years to come. Given an acceptable state policy, mineral resources will be developed at Jardine and elsewhere with social and environmental concern.

In his state of the state message, Gov. Ted Schwinden referred to a Chicago Tribune reporter who had recently visited our state.

"Montana wants the best of both worlds," the reporter wrote, "More jobs and better business without endangering the mountain wilderness, the clear trout streams, the clean air under the big sky."

Montana will have the best of both worlds and the mining industry--which is just as basic to our state as scenic beauty, harvesting timber, growing wheat or raising cattle--will contribute.

But the mining industry will thrive only if it is spared regulatory duress. I sincerely hope this compromise, reached in good faith between individuals that care deeply about Montana, will represent the final restrictions placed on the mining industry. Otherwise, those of us who produce minerals in Montana will be forced to question the sincerity of those who have promoted House Bill 693.

Gary A. Langley
Executive Director
Montana Mining Association

Mr. Mike Miconi, representing Western Environmental Trade Association, believes HB912 is an improvement in the current law.

Mr. Joe Danni, representing Homestake Mining, endorses HB912.

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

Senator Halligan suggested to Ms. Souvigney they go back to the original language of "local government unit" in order to include everyone and to protect the members of her organization. Ms. Souvigney stated there never was a question regarding what lcoal government units would be covered and believes no one would be left out. Ms. Souvigney further explained some districts, like the conservation districts, would still go through the county.

There being no further questions from the committee, the hearing on HB912 was closed.

ACTION ON HB860: Senator Fuller moved HB860 BE CONCURRED IN. The motion carried.

ACTION ON HB698: Senator Halligan moved HB698 BE CONCURRED IN. Senator Daniels made a substitute motion HB698 NOT BE CONCURRED IN. The motion failed, and the committee asked the vote be reversed to reflect the bill BE CONCURRED IN.

There being no further business to come before the committee the meeting was adjourned at 2:27 p.m.

Dorothy Eck

Senator Dorothy Eck, Chairman

Natural Resources COMMITTEE

48th LEGISLATIVE SESSION -- 1985 Date 3-20-85

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| ECK, Dorothy (Chairman | ✓ | | |
| HALLIGAN, Mike (Vice Chairman) | ✓ | | |
| WHEELING, Cecil | ✓ | | |
| MOHAR, John | ✓ | | |
| DANIELS, M. K. | ✓ | | |
| FULLER, David | ✓ | | |
| CHRISTIAENS, Chris | ✓ | | |
| TVEIT, Larry | ✓ | | |
| GAGE, Delwyn | ✓ | | |
| ANDERSON, John | ✓ | | |
| SHAW, James | ✓ | | |
| HARDING, Ethel | ✓ | | |
| | | | |
| | | | |
| | | | |

Each day attach to minutes.

SENATE COMMITTEE Natural Resources

Date 032085 House Bill No. 698 Time 2:56

| NAME | YES | NO |
|---|---|---|
| ANDERSON, John | | X |
| CHRISTAENS, Chris | | X |
| DANIELS, M. K. | X | |
| FULLER, David | | X |
| GAGE, Delwyn | X | |
| HALLIGAN, Mike (Vice Chairman) | | X |
| HARDING, Ethel | X | |
| MOHAR, John | | X |
| SHAW, Jim | X | |
| TVEIT, Larry | X | |
| WEEDING, Cecil | | X |
| ECK, Dorothy (Chairman) | | X |

Cynthia M. Peterson
Secretary

Dorothy Eck
Chairman

Motion: Senator Daniels moved HB698 DO NOT BE CONCURRED IN. The motion failed, and the committee asked the vote to be reversed to reflect the bill BE CONCURRED IN.

1985

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 6
DATE 032085
BILL NO. HB698

MARCH 20 19 95

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 698

THIRD (~~SECOND~~) reading copy ( BLUE color )

DETAILS METAL MINE APPLICATION AND RECLAMATION PLAN REQUIREMENTS AND STATE'S ACTIONS

Respectfully report as follows: That HOUSE BILL No. 698

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

SENATOR DOROTHY ECK Chairman.

WITNESS STATEMENT

Name ROBERT DELLO-RUSSO Committee On NATURAL RESOURCES

Address _____ Date 2/15/85

Representing CONCERNED CITIZENS FROM LINCOLN & SANDERS COUNTIES Support X

Bill No. ~~HB 676~~ HB 676 Oppose _____

Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. SUPPORT: COMPREHENSIVE BASELINE DATA
   SAFE & STABLE TAILINGS IMPOUNDMENTS
2. CONTROL & ~~MITIGATION~~ MITIGATION FOR ACCIDENTAL DISCHARGE
   MORE PUBLIC OPINION
   LEGAL RIGHT TO ENFORCEMENT
3. ACTION FOR DAMAGES TO WATER QUALITY
4. N.W. MONTANA IS POTENTIAL SITE MASSIVE MINERAL DEVELOPMENT & NEEDS STRINGENT ENVIRONMENTAL SAFEGUARDS NOW!

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34

EXHIBIT 6
2/15/85

Robert Dello-Russo

Star Route 2, Box 16

Heron, Montana 59844

Proponent of HB 698-Amendments to Hard Rock Mining Law

Mr.Chairman and members of the Committee, My name is Robert Dello-Russo, from Heron, Montana. I'm here on behalf of myself and concerned citizens from Lincoln and Sanders Counties as a proponent of some of the recently proposed amendments to Montana's Hard Rock Mining Law.

In light of the present activities at the ASARCo Troy Project, and its various attendant problems, and also in view of the proposed ASARCo Rock Creek Project and the many other future proposals in the Cabinet Mts. mining district, we feel that now is the time for the State and its citizens to develop a workable and enforcable set of development impact criteria.

The four sections which we feel warrant consideration are as follows:

Section 1 (82-4-335)

Item H requiring the collection of comprehensive base-line data for ground and surface waters is imperative! In our opinion, the Troy Project was deficient in this area.

ItemI requiring safe and stable tailings impoundments is also imperative. We have evidence from several sources indicating design flaws and insufficient monitoring at the Troy Project.

Item J requiring control and mitigation of accidental discharges to surface and ground waters is timely, to say the least. Past and recent infractions at the Troy Project point to the insufficiency of the present law in this regard.

Item K dealing with tailings and waste site expansion should also be included. Again, evidence at Troy shows possible imminent failure of an impoundment that is slated to accept 15 years worth of additional tailings.

Section 3 (82-4-338) Providing public input in response to an operating permit bond release is crucial to the maintainance of tailings impoundments. In our opinion, these sites should require long-term care, to ensure continued protection of water quality.

Section 4 granting persons the legal right to ENFORCEMENT OF ~~enforce~~ State laws is, in our opinion, extremely valuable. Many people in my area have expressed frustration with the State Government regarding the maintainence of water quality downstream from the Troy Project. As we feel very strongly about maintaining a healthy living environment for ourselves and our children, we see this amendment as a good tool to help us achieve that end.

Section 5 which allows action for damages to water supplies, is a vital addition to the present law. Our corner of the State is extremely rich in high-quality water, and this resource is quickly becoming more valuable as its supply diminishes. Historically, water quality has always suffered greatly when impacted by mining but we do not see the sense in ruining the good water resources of the Clark Fork River and its tributaries just to develop a nearby mineral resource. The two must not be mutually exclusive!

In summation, I would like to point out that the Troy Project is a model for all the potential future mining activity in our district. It must be a faultless model if future mining impacts are to be minimized. As the aforementioned amendments would help insure this, we strongly urge you to impliment them as drafted.

Thank-you for the opportunity to comment.

# NORTHERN PLAINS RESOURCE COUNCIL

Field Office
Box 858
Helena, MT 59624
(406) 443-4965

Main Office
419 Stapleton Building
Billings, MT 59101
(406) 248-1154

Field Office
Box 886
Glendive, MT 59330
(406) 365-2525

HB 698

Mr. Chairman and members of the committee, I am Paul Hawks of Melville. I am a representative on the Board of the Northern Plains Resource Council, and a member of NPRC's Boulder Valley affiliate. I come today to urge your support of HB 698.

Within NPRC, we have three affiliates in areas facing hard rock development: in the Stillwater Valley, the Boulder Valley, and the Gardiner/Jardine area. These members are going to be directly affected by hard rock development; many are facing the prospect of a mine development and tailings impoundment located directly above their ranches. This bill addresses some of the major concerns of these members regarding hard rock development and its effects on surface and ground water, a resource vitally important to our businesses of ranching and farming; to problems of erosion; and to safety of tailings impoundments. We feel this bill is a good attempt to address those concerns while still allowing the Department of State Lands (DSL) flexibility to address the wide variety of mining projects across the state that it must regulate.

There is always the potential for abuse when laws are written to address particular concerns and at the same time written broadly enough to allow flexibility, as this bill is. By doing so, it places a responsibility on all parties involved to not abuse the flexibility incorporated in the new language. It is our belief that it is when these abuses occur that efforts are subsequently made to restrict flexibility, and we hope this doesn't happen.

This bill continues the obligation of the operator to meet the requirements within the law, but allows individual operators some leeway in determining what constitutes, for example, "sufficient" water data, and what details to include in monitoring and contingency plans, and to determine, within their own reclamation plans, what meets the requirements of "comparable utility and stability as adjacent areas".

This flexibility places a burden on the department to decide whether an operator has followed the intent and requirements of the law, and to enforce the provisions within the operating permit and reclamation plan.

We also recognize that this flexibility places a burden on our members, and on all affected citizens, to participate in the regulatory process to ensure that the inclusions in the operating permit, as discussed in Section 1 of the bill, are adequate; that the requirements in the reclmation plan listed in Section 2 have been met; and to work with the department regarding problems of enforcement of regulations or damages to water supply. As affected citizens, we are willing to be involved in this process.

Both of the two new sections in the bill, sections 4, page 8, on mandamus, and 5, page 9, on replacement of damaged water supplies are similar to provisions in the Montana Strip and Underground Mine Reclamation Act, with some changes to address concerns of the department and particularly the Montana Mining Association.

The mandamus section provides a concise description of the process that a citizen should go through if he or she feels the hard rock mining act is not being enforced, including bringing the enforcement problem to the attention of the department. The water replacement section lays out the procedure for citizens to request a remedy for damaged water supplies.

We urge you to support this bill, and would like to express our appreciation for the willingness of the department and the Montana Mining Association to sit down and work with us to write a bill that would address our members' concerns, and to work out conflicts prior to the final bill and hearing. We know it hasn't been easy, and Commissioner Hemmer deserves a great deal of credit for his work on behalf of this bill.

Thank you for your time. If you have any questions, I or Jeanne-Marie will try to answer them.

2/15/85

TESTIMONY ON HOUSE BILL 698

FROM DENNIS HEMMER, COMMISSIONER OF STATE LANDS

The Department of State Lands supports the passage of House Bill 698. This bill truly clarifies the requirements of the Metal Mine Reclamation Act or as it is more commonly known, the Hard Rock Act. Virtually all the additions to the information requirements or to the performance standards are either required by other laws, rules, or interpretation of other laws and rules. Placing the requirements directly in the Hard Rock Act will aid the applicant by having the requirements in one place. It also aids the interested person as they can more easily determine the standards of the Act.

The last two sections of the bill are new. Both actions are presently available to an aggrieved party through court action. The advantage of these sections is that they layout an administrative procedure that must be followed before litigation is pursued. Litigation is costly for all parties involved and if the problem can be worked out administratively, it's better for all.

House Bill 698 is the result of a compromise between the interested groups and the mining industry. It is a good compromise and I urge you to give it a do pass recommendation.

2/15/85

TESTIMONY OF THE MONTANA MINING ASSOCIATION
BEFORE THE HOUSE TAXATION COMMITTEE
ON HOUSE BILL 698
February 15, 1985

Mr. Chairman, members of the committee:

For the record, my name is Gary Langley. I am executive director of the Montana Mining Association. The Montana Mining Association is a trade association that represents 1) Every major producer of har rock minerals in Montana; 2) Companies that hope to operate mines in Montana in the future; 3) Individuals with an interest in mining, and 4) Companies that supply goods and services to the mining industry.

The Montana Mining Association neither supports nor opposes House Bill 698.

House Bill 698 represents a compromise between the Northern Plains Resource Council and the Montana Mining Association.

The Montana Mining Association believes House Bill 698 is unnecessary because mining companies already are meeting its provisions. The requirements in House Bill 698 duplicate administrative rules and regu tions enforced by other state agencies. We caution that the provision in House Bill 698 are implemented with care to avoid confusion and con flicts with existing regulations. In addition, House Bill 698 will all individuals who believe they have been aggrieved by a mining operation to take administrative action against that company.

In the last decade, the mining industry has faced strict regulatory proposals in nearly every session of the Legislature. House Bill 698

represents yet another layer of regulation on an industry that faces the most restrictive requirements in any state in the nation.

Modern mining in Montana operates in respect to laws and regulation that were designed to protect Montana's environment. The people who produce minerals are just as concerned with sound environmental practices as those who pass the laws and enforce them.

As a second generation Montanan, I am concerned about our state's environment. But I also want to see development of our mineral resources with the jobs the mining industry provides and the taxes it pa For years, I hunted elk near the site where a mining development will be in operation within the next few years at Jardine. Those elk are still there to day and will be for many years to come. Given an acceptable state policy, mineral resources will be developed at Jardine and elsewhere with social and environmental concern.

In his state of the state message, Gov. Ted Schwinden referred to a Chicago Tribune reporter who had recently visited our state.

"Montana wants the best of both worlds," the reporter wrote, "More jobs and better business without endangering the mountain wilderness, the clear trout streams, the clean air under the big sky."

Montana will have the best of both worlds and the mining industry--which is just as basic to our state as scenic beauty, harvesting timber growing wheat or raising cattle--will contribute.

But the mining industry will thrive only if it is spared regulatory duress. I sincerely hope this compromise, reached in good faith between individuals that care deeply about Montana, will represent the final restrictions placed on the mining industry. Otherwise, those of us who produce minerals in Montana will be forced to question the sincerity of those who have promoted House Bill 698.

Gary A. Langley
Executive Director
Montana Mining Association

2/15/85

Parks' Fly Shop

GARDINER
MONTANA
59030

Testimony on HB-698

Mr. Chairman, members of the Committee, my name is Richard Parks. I operate the Parks' Fly Shop in Gardiner and am a member of the Bear Creek Council affiliated with Northern Plains. I support the provisions of HB-698. In our community we are faced with the redevelopment of an old gold mine. For years the abandoned tailings site has been a sea of wind swept arsenic dust. To the credit of first Anaconda and then Homestake who is heading the current project, one old tailings site has been partially reclaimed and a dangerous old mill site sanitized. The redevelopment plan entails the reclamation of the old tailings site. It is worth noting however that the old tailings site became substantially more dangerous after the previous operation folded up shop. My business caters to the fishing public and obviously water quality is also of major importance to us.

It is with that background that I appear to support the provisions of this bill. We believe that the companies currently involved in Jardine are making a good faith effort but our experience argues for tightening up the rules to mitigate the back-end effects. Likewise the Mandamus provisions are important to enable us to monitor the long term compliance - even after a project may have terminated.

Thank you.

NORTH ENTRANCE TO YELLOWSTONE NATIONAL PARK

VISITORS' REGISTER

Natural Res COMMITTEE

BILL NO. HB 698 DATE 2/15/85

SPONSOR

| NAME (please print) | RESIDENCE | SUPPORT | OPPOSE |
|---|---|---|---|
| Richard Parks | Gardiner | X | |
| Geo. Ochenski | Helena (E.I.C.) | ~~X~~ | |
| Paul Hawks | Melville (NPRC) | X | |
| Robert Della-Russo | Heron | X | |
| Dennis Hemmer | Helena | ✓ | |
| ~~Jim Hackler~~ | " | ~~X~~ | |
| ~~Fo~~ | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING
SENATE NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE
March 18, 1985

The twenty-first meeting of the Senate Natural Resources Committee was called to order at 1:00 p.m. by Chairman Dorothy Eck, March 18, 1985, Room 405, State Capitol Building.

ROLL CALL: All members of the Senate Natural Resources Committee were present.

CONSIDERATION OF HB702: Representative Harbin, sponsor of HB702, stated he is introducing HB702 on behalf of the Department of State Lands. Prior to 1981, the responsibility of managing state forest lands was with the Department of Natural Resources and Conservation (hereafter DNRC). In 1981, this responsibility was shifted to the Department of State Lands. However, some of Montana's statutes were never changed to reflect this shift of responsibility. HB702 simply changes these statutes to reflect this responsibility is now primarily with the Department of State Lands.

PROPONENTS: Mr. Dennis Hemmer, representing the Department of State Lands, submitted written testimony (Exhibit 1) in favor of HB702.

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

Senator Shaw questioned whether HB702 will have a fiscal impact. Mr. Hemmer replied it would not.

There being no further questions from the committee, the hearing on HB702 was closed.

ACTION ON HB702: Senator Christiaens moved HB702 BE CONCURRED IN. The motion carried.

CONSIDERATION OF HB698: Representative Ream, sponsor of HB698, stated this bill is fairly simple, since the groups involved have worked out the bill ahead of time. Representative Ream explained HB698 provides for groundwater information to be provided with applications for operating permits, a commitment and plan to stabilize dams and dikes, and a mandamus section similar to the one contained in the Strip Mine Act. Section 5 also provides for replacement of damaged water supplies.

PROPONENTS: Mr. Dennis Hemmer, representing the Department of State Lands, submitted written testimony (Exhibit 2) in favor of HB698.

Mr. Jack Heyneman, of Fishtail, Montana, submitted written testimony (Exhibit 3) as a proponent of HB698.

Mr. George Ochenski, representing the Environmental Information Center, applauds the efforts of everyone involved in drafting HB698. Mr. Ochenski also submitted written testimony from Bonnie Reishus (Exhibit 4) in favor of HB698.

Mr. Gary Langley, representing the Montana Mining Association, submitted written testimony (Exhibit 5) and stated he is neither a proponent nor an opponent of HB698, because he feels this bill is unnecessary.

Mr. Ward A. Shanahan, representing Chevron Corporation, stated he worked on HB698 with the Department of State Lands and the Northern Plains Resource Council. Mr. Shanahan feels the legislature should be examining ways to protect Montana's raw materials and the costs associated with producing raw materials. Mr. Shanahan hopes that in the future, the legislature will give consideration to eliminating some of the regulations relating to production of raw materials.

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

Senator Shaw questioned Mr. Hemmer about the "right for hearing" referred to on page 8, lines 10-12. Mr. Hemmer explained this refers to the legislative hearing and provides an opportunity for the public to come and testify.

Senator Weeding inquired about who sets the county standards for weed control referred to on page 6, lines 11-12. Mr. Hemmer replied these standards are set by the County Weed Board, and an operator would have to meet the same standards as ranchers and farmers.

Senator Fuller inquired what "comparable utility" referred to on page 6, lines 17-18. Mr. Hemmer stated an operator would be required to return the land, so it could be used for the same purposes as adjacent lands were being used for.

Upon question from Senator Fuller, Mr. Hemmer explained HB698 does not have any relation to ASARCO or the pending court action regarding MEPA.

Senator Halligan wanted to know what would happen if an operator could not replace water with a like quality and quantity as required in subsection (iv), page 11. Mr. Hemmer replied that in most instances, there would be a way to do so. Mr. Hemmer feels if nothing else is feasible, a new [illegible] be drilled or a new water right could be

There being no further questions from the committee, Representative Ream closed the hearing on HB698 by stating this bill is not the result of activities taking place at any particular mine.

CONSIDERATION OF HB769: Representative Holliday, sponsor of HB769, submitted written testimony (Exhibit 6) stating the Coal Mine Reclamation Act is not clear regarding procedures and amount of bond money that may be released as reclamation proceeds. HB769 will correct this problem.

PROPONENTS: Mr. Jim Mockler, representing the Montana Coal Council, stated HB769 is a complicated bill, and the language is taken directly from the federal Surface Mine Control and Reclamation Act. HB769 will allow an operator to receive a portion of the bond back. Mr. Mockler stated the Department of State Lands has shown its willingness to work out problems in order to give both parties fair treatment.

Mr. Dennis Hemmer, representing the Department of State Lands, submitted written testimony (Exhibit 7) in favor of HB769.

Ms. Marg Green, representing the Montana Farm Bureau Federation, submitted written testimony (Exhibit 8) in favor of HB769.

Mr. Russ Brown, representing Northern Plains Resource Council, stated his organization worked on HB769 with the Department of State Lands and urged the committee to pass the bill.

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

Senator Weeding stated it is difficult to read the stricken language on pages 4 and 5 and questioned Mr. Mockler as to how the stricken language read. Mr. Mockler stated the stricken language is very similar to the new language and does not remove any protections.

There being no further questions from the committee, the hearing on HB769 was closed.

CONSIDERATION OF HB784: Representative Holliday, sponsor of HB784, submitted written testimony (Exhibit 9) stating HB784 has two purposes: (1) Administrative completeness and acceptability; and (2) outlining specific time frames for application review, EIS preparation and departmental decision.

PROPONENTS: Mr. Dennis Hemmer, representing the Department of State Lands, submitted written testimony (Exhibit 10) in favor of HB784.

Senator Weeding had a problem with Section 4 and stated a lessee could be reimbursed for 100 percent when he is only entitled to 80 percent. Mr. Hemmer replied that what happens between the two lessees is of no consequence to the Department of State Lands.

There being no further questions from the committee, the hearing on HB705 was closed.

ACTION ON HB705: Senator Fuller moved HB705 BE CONCURRED IN. The motion carried.

ACTION ON HB769: Senator Shaw moved HB769 BE CONCURRED IN. The motion carried.

ACTION ON HB784: Senator Tveit moved HB784 BE CONCURRED IN. The motion carried.

FURTHER ACTION ON HB680: Senator Halligan moved the committee reconsider its action on HB680. Senator Halligan feels that HB680 is such an important bill that the committee should consider meeting to discuss this bill at length.

Chairman Eck stated she agreed and thought perhaps there was an amendment to the Statement of Intent which the committee should consider.

Senator Gage also agreed, stating he was also looking at some proposed amendments and would like to have the opportunity to speak with some people about issues which were not clearly brought out in the testimony given by the proponents and opponents.

Senator Weeding agreed with Senator Halligan's motion because he feels the committee should consider the impact on the railroads.

Chairman Eck reminded the committee that by agreeing to reconsider HB680, the committee would not be striking any of the amendments previously adopted.

Senator Halligan's motion carried, with Senator Daniels voting in opposition.

FURTHER CONSIDERATION OF HB698: Senator Shaw stated Montana is in an economic crisis, and he does not want to see any more restrictions placed on the mining industry.

There being no further business to come before the committee, the meeting was adjourned at 2:25 p.m.

Dorothy Eck

Senator Dorothy Eck, Chairman

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date February 15, 1983

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| IVERSON, Dennis (Chairman) | X | | |
| KADAS, Mike (Vice-Chairman) | X | | |
| ADDY, Kelly | X | | |
| ASAY, Tom | X | | |
| COBB, John | X | | Ex |
| DRISCOLL, Jerry | X | | |
| GARCIA, Rodney | X | | |
| GRADY, Edward | X | | |
| HARP, John | | | X |
| JONES, Tom | X | | |
| KRUEGER, Kurt | X | | |
| MILES, Joan | X | | |
| MOORE, Janet | X | | |
| O'HARA, Jesse | X | | |
| PETERSON, Mary Lou | X | | |
| RANEY, Bob | X | | |
| REAM, Bob | X | | |
| SMITH, Clyde | X | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

FEBRUARY 15 19 35

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No 698

FIRST reading copy (WHITE color)

AN ACT DETAILING METAL MINE APPLICATION AND RECLAMATION PLAN REQUIREMENTS.

Respectfully report as follows: That HOUSE Bill No 698

BE AMENDED AS FOLLOWS:

1) Page 9, line 19
Following: "person"
Insert: "having an interest that is or may be adversely affected"

AND AS AMENDED,

DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

2/13/85

AMENDMENT TO H.B. 698

(Introduced Bill)

1. Page 9, line 19.
Following: "person"
Insert: "having an interest that is or may be adversely affected"